

Office of the Secretary of Defense

§ 156.3

47. Clearance decisions issued by Administrative Judges and the Appeal Board shall be indexed and made available in redacted form to the public.

[57 FR 5383, Feb. 14, 1992, as amended at 59 FR 35464, July 12, 1994; 59 FR 48565, Sept. 22, 1994]

PART 156—DEPARTMENT OF DEFENSE PERSONNEL SECURITY PROGRAM (DoDPSP)

Sec.

156.1 Purpose.

156.2 Applicability and scope.

156.3 Policy

156.4 Responsibilities.

AUTHORITY: 50 U.S.C. 781.

SOURCE: 58 FR 42855, Aug. 12, 1993, unless otherwise noted.

§ 156.1 Purpose.

This part:

(a) Updates the policy and responsibilities for the DoDPSP under Pub. L. 81-832; E.O. 10450, 18 FR 2489, 3 CFR, 1949-1953 Comp., p. 936; E.O. 10865, 25 FR 1583, 3 CFR, 1959-1963 Comp., p. 398; E.O. 12333, 46 FR 59941, 3 CFR, 1981 Comp., p.200; and E.O. 12356, 47 FR 14874 and 15557, 3 CFR 1982 Comp., p. 166.

(b) Continues to authorize the publication of DoD 5200.2-R¹ in accordance with DoD 5025.1-M.²

§ 156.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, and the Defense Agencies, except as provided for the National Security Agency (NSA) in paragraph (b) of this section (hereafter referred to collectively as “the DoD Components”).

(b) The NSA is exempt from the provisions of this Directive. The personnel security program for the NSA is implemented pursuant to DoD Directive

5210.45,³ and internal regulations of the NSA.

(c) DoD military and civilian personnel, consultants to the Department of Defense, contractors cleared under the Defense Industrial Security Program (DISP) Regulations DoD 5220.22⁴ and others affiliated with the Department of Defense.

§ 156.3 Policy.

It is DoD policy that:

(a) No person shall be appointed as a civilian employee of the Department of Defense, accepted for entrance into the Armed Forces of the United States, authorized access to classified information, or assigned to duties that are subject to investigation under this part unless such appointment, acceptance, clearance, or assignment is clearly consistent with the interests of national security.

(b) A personnel security clearance shall be granted and assignment to sensitive duties shall be authorized only to U.S. citizens. As an exception, a non-U.S. citizen may, by an authorized official (as specified in 32 CFR part 154) be assigned to sensitive duties or granted a Limited Access Authorization for access to classified information if there is a need for access in support of a specific DoD program, project, or contract.

(c) The personnel security standard that shall be applied in determining a person's eligibility for a security clearance or assignment to sensitive duties is whether, based on all available information, the person's allegiance, trustworthiness, reliability, and judgment are such that the person can reasonably be expected to comply with Government policy and procedures for safeguarding classified information and performing sensitive duties.

(d) 32 CFR part 154 shall identify those positions and duties that require a personnel security investigation (PSI). A PSI is required for:

(1) Appointment to a sensitive civilian position.

(2) Entry into military service.

¹Copies may be obtained at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to 156.1(b).

³See footnote 1 to 156.1(b).

⁴See footnote 1 to 156.1(b).

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(3) The granting of a security clearance or approval for access to classified information.

(4) Assignment to other duties that require a personnel security or trustworthiness determination.

(5) Continuing eligibility for retention of a security clearance and approval for access to classified information or for assignment to other sensitive duties.

(e) 32 CFR part 154 shall contain personnel security criteria and adjudicative guidance to assist in determining whether an individual meets the clearance and sensitive position standards referred to in paragraphs (a) and (c) of this section.

(f) No unfavorable personnel security determination shall be made except in accordance with procedures set forth in 32 CFR part 154 or 32 CFR part 155 or as otherwise authorized by law.

§ 156.4 Responsibilities.

(a) The *Assistant Secretary of Defense for Command, Control, Communications, and Intelligence* shall:

(1) Be responsible for overall policy, guidance, and control of the DoDPSP.

(2) Develop and implement plans, policies, and procedures for the DoDPSP.

(3) Issue and maintain DoD 5200.2-R consistent with DoD 5025.1-M.

(4) Conduct an active oversight program to ensure compliance with DoDPSP requirements.

(5) Ensure that research is conducted to assess and improve the effectiveness of the DoDPSP (DoD Directive 5210.79⁵).

(6) Ensure that the Defense Investigative Service is operated pursuant to 32 CFR part 361.

(7) Ensure that the DoD Security Institute provides the education, training, and awareness support to the DoDPSP under DoD Directive 5200.32.⁶

(8) Be authorized to make exceptions to the requirements of this part on a case-by-case basis when it is determined that doing so furthers the mission of the Department of Defense and is consistent with the protection of

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classified information from unauthorized disclosure.

(b) The *General Counsel of the Department of Defense* shall:

(1) Be responsible for providing advice and guidance as to the legal sufficiency of procedures and standards implementing the DoDPSP and the DISP.

(2) Exercise oversight of PSP appeals procedures to verify that the rights of individuals are being protected consistent with the constitution, laws of the United States, Executive Orders, Directives, or Regulations that implement the DoDPSP and DISP, and with the interests of national security.

(c) The *Heads of the DoD Components* shall:

(1) Designate a senior official who shall be responsible for implementing the DoDPSP within their components.

(2) Ensure that the DoDPSP is properly administered under this Directive within their components.

(3) Ensure that information and recommendations are provided to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence on any aspect of the program.

PART 159—PRIVATE SECURITY CONTRACTORS OPERATING IN CONTINGENCY OPERATIONS

Sec.

159.1 Purpose.

159.2 Applicability and scope.

159.3 Definitions.

159.4 Policy.

159.5 Responsibilities.

159.6 Procedures.

AUTHORITY: Public Law 110-181; Pub. L. 110-417.

SOURCE: 74 FR 34691, July 17, 2009, unless otherwise noted.

§ 159.1 Purpose.

This part establishes policy, assigns responsibilities and provides procedures for the regulation of the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract. It also assigns responsibilities and establishes procedures for incident reporting, use of and accountability for equipment, rules for the use of force, and a process

⁵See footnote 1 to 156.1(b).

⁶See footnote 1 to 156.1(b).